IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2666 of 1997

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MAFATJI VAGHAJI THAKOR & 1 - Petitioner(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
MR HARISH SONI for MR PANKAJ K SONI for Petitioner(s) : 1 - 2.
MS MINI NAIR, AGP for Respondent(s) : 1 - 2.
Respondent(s) : 3 SERVED ,
MR AK CHITNIS for Respondent(s) : 4,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 12/10/2007

ORAL JUDGMENT

This petition under Article 226 of the Constitution of India has been preferred by one Shri Mafatji Vaghaji Thakor and another, residents of

village Shilaj, against the order dated 23rd November, 1996 made by the District Collector, Ahmedabad under Section 37 of the Bombay Land Revenue Code, 1879 (hereinafter referred to as, **"the Code"**).

By impugned order made by the District Collector, Ahmedabad, the land bearing Block No.1315 paiki admeasuring 5000 sq.meters of village Shilaj, taluka Dascroi has been granted to one M/s. Western Times Publication Private Limited (hereinafter referred to as, **"the Western Times"**) for establishment of a Press and a godown, at a concessional rate. It is this order of grant which is subject matter of challenge in this petition.

The petitioners claim that they are the residents of village Shilaj; they are engaged in agriculture and they maintain cattle. The disputed land was the 'gauchar' land allotted to the Shilaj Gram Panchayat (hereinafter referred to as, **"the Gram Panchayat"**). The District Collecter has allotted the disputed land to the Western Times in exercise of power conferred by Section 37 of the Code.

The challenge is two-fold (1) that the disputed land was a 'gauchar' land allotted to the Panchayat and; (2) that the purpose for which the grant has been made cannot be said to be the public purpose.

The petition is contested by the State Government. Ms.Nair has submitted that true, the disputed land was transferred to the Panchayat as 'gauchar' land on the terms and conditions mentioned in the order. The Panchayat, however, committed breach of the said terms and conditions in as much as the Panchayat, in contravention of the terms and conditions, transferred the disputed land to one Shri Chintan Navnitlal and Shri Sanjay Lalbhai for development. The said Shri Chintan Navnitlal and Shri Sanjay Lalbhai had also entered the disputed land and had taken the possession unlawfully. In view of the said breach of the terms and conditions of the grant, the State Government, by order dated 6th June, 1992, resumed the said land and was entered in the revenue record as 'Government Waste Land'. Revenue entry to that effect was made on 20th June, 1992. The said order of resumption of land was not challenged

further and had become final. Thus, on the date of the impugned order the disputed land was a 'Government Waste Land'. The Collector is empowered under Section 37 of the Code to allot Government land. It is that power in exercise of which the Collector had made the impugned order.

It is apparent that the disputed land was given to the Gram Panchayat as 'gauchar' land for cattle grazing. However, the said land was never used for grazing the cattle. Instead, it was transferred to two private persons for development. In view of the breach of the terms and conditions of the grant, the land was resumed by the State Government and was allotted to the Western Times as aforesaid. The impugned order had, thus, been made by the Collector in exercise of power conferred upon him.

No case for interference is made out. The petition is dismissed. Rule is discharged. The parties will bear their own cost.

(Ms. R.M.Doshit, J.)

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